



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------------------|-----------------------------|
| 10/797,173 | 03/10/2004 | Kevin A. Seiling | 02-124 | 4034 |
| 30058 | 7590 | 12/17/2007 | | |
| COHEN & GRIGSBY, P.C. 11 STANWIX STREET 15TH FLOOR PITTSBURGH, PA 15222 | | | EXAMINER KENNY, DANIEL J | |
| | | | ART UNIT 3633 | PAPER NUMBER |
| | | | NOTIFICATION DATE 12/17/2007 | DELIVERY MODE ELECTRONIC |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

IPPatent@CohenLaw.com
LPaine@CohenLaw.com

Office Action Summary

Application No.

10/797,173

Applicant(s)

SEILING ET AL.

Examiner

Dan Kenny

Art Unit

3633

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 October 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) 1-5 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 6-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

Applicant's election without traverse of the invention of Group II in the reply filed on 9/21/2007 is acknowledged.

Claim Objections

Claim 7 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.

4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 6-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Davies (4,984,402) in view of (Graham et al. (6,003,277) or Winner (5,014,466)) and (Leisibach (2,993,242) or Jackson (4,819,405)).

Davies discloses a window sash comprising:

Claims 6 and 7

(a) four rails (20), each of said rails having an elongated solid body with first and second longitudinal ends, each of said first and second longitudinal ends being connected to a longitudinal end of another of said four rails to define a rectangular frame, the elongated body of each of said rails defining (col. 2, lines 61-63):

a center face (27);

a perimeter face (20A) that is oppositely disposed on said body from said center face;

an exterior lateral surface (20C) that extends between said center face and said perimeter face;

an interior lateral surface (20B) that is oppositely disposed on said body from said exterior lateral surface;

an internal passageway (closed hollow structurally supporting profile, col. 3, lines 22 and 23) that is located between said center face and said perimeter face and that also is located between said exterior lateral surface and said interior lateral surface;

a drain hole (28) that is located in said center surface, said hole forming a pathway between said center face and said internal passageway such that water collecting on said center face can flow through said hole to said internal passageway; and

at least one boring (28A) having one opening in said perimeter face and another opening in said internal passageway such that water collecting in said internal passageway can flow from said internal passageway through said boring to the perimeter face of said body;

(b) first and second site panels (10, 11) that are located within the rectangular frame that is formed by said rails;

(c) a spacer (12) for separating the site panels from each other; and

(d) four glazing beads (26), each of said glazing beads engaging the glazing pocket of a respective one of said four rails, said glazing bead urging said site panels and said spacer against said body to secure said site panels and said spacer to said body.

Davies does not expressly disclose a reinforcing member in the passageway, and Davies discloses a drain hole, rather than a slot, in the center surface.

However, it is well known in the art to provide window sashes, of the type claimed, with reinforcing members in the passageway for additional structural support.

Reference Graham et al. and Winner teaching a sash with reinforcing members (Graham et al. at 216, and Winner at 41) in the passageway. Therefore, it would have been obvious and well within the level of one skilled in the art at the time the present

invention was made to modify the sash of Davies using the reinforcing of Graham et al. or Winner for added rail strength. It would have been further obvious and well within the level of one skilled in the art at the time the present invention was made to modify the sash of Davies using the Leisibach, or Jackson-taught slots (33, and 13, respectively) rather than a hole to increase the volume of water flowing away from the window.

Claims 8 and 9 – Davies further comprises a tower (24) that is joined at the center face of said body and also being located adjacent to the interior lateral surface of said body, and wherein the glazing bead urges said site panels and said spacer against said tower.

Claim 10 – Davies discloses a thermosetting plastic resin body material (col. 2, lines 65 and 66), which, as broadly recited, encompasses polyvinylchloride foam.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dan Kenny whose telephone number is (571) 272-9951. The examiner can normally be reached on Monday thru Friday, 9 am to 5 pm.

Application/Control Number:
10/797,173
Art Unit: 3633

Page 6

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on (571) 272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

DK

DK

12/5/2007


Jeanette Chapman
Primary Examiner